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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/706,122

11/12/2003

Jurgen Brinkhues

9003-286US

6214

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7590

07/14/2008

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EXAMINER

MEHTA, BHISMA

ART UNIT

PAPER NUMBER

3767

MAIL DATE

DELIVERY MODE

07/14/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/706,122	BRINKHUES, JURGEN	
	Examiner	Art Unit	
	BHISMA MEHTA	3767	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15 and 17-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15 and 17-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/26/2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 16 2008 has been entered.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification fails to disclose a cross-section of the receiving cavity commencing from a bottom continuously tapering out toward an opening of the receiving cavity.

Claim Objections

3. Claims 15 and 17-20 are objected to because of the following informalities: Claim 15 recites the limitation "the surface of the edge region" in lines 15-16. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 15 and 17-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Daikyo Seiko KK (JP Publication No. 6-343677). Daikyo Seiko KK disclose a piston stopper comprising a base body (19) being made substantially from an elastomer and comprising a receiving cavity (23) for connecting with a displacement transferring element. The stopper also has a piston section (18) enclosed in a cap-shaped inert film (16) where the piston section (18) in a working position faces the contents of a syringe or carpule cylinder (1). The outer circumference of the piston section (18) abuts against the syringe or carpule cylinder (1). The piston stopper has an uncoated sealing section (28) adjacent to the piston section (18). The uncoated sealing section (28) and an edge region of the inert film (16) flatly abut in the working position against the syringe or carpule cylinder (1). At least one continuous sealing lip (see Figure 12) is provided on the outer circumference of the uncoated sealing section (28). The base body (19) of the piston stopper is made in one piece. The receiving cavity extends up into the piston section. On an outer circumference of the sealing section (28), there is an annular continuous sealing zone which is directly adjacent to and directly adjoining to the edge region of the inert film (34) and which abuts against an inner wall of the syringe or carpule cylinder. The annular continuous sealing zone projects slightly radially beyond

the surface of the edge of the inert film such that in the working position, the piston stopper abuts with the sealing section fully against the syringe or carpule cylinder. A section of an inside wall of the piston stopper bordering the receiving cavity has an internal thread to connect with a thread of the displacement transferring element and the internal thread terminates at a spacing from a bottom of the receiving cavity (see Figures 10 and 12). As to claim 18, the section with the internal thread terminates at the piston section (18) or at a spacing from it and a cylindrical or tapered receiving cavity joins the section with the internal thread (see Figure 10). At least a portion of the cross-section of the receiving cavity (23) commencing from a bottom continuously tapers out toward an opening of the receiving cavity. The inert film comprises a fluorinated polymer film (see paragraph [0016] on pages 7-8 of the translation of JP Publication No. 6-343677).

Response to Arguments

6. Applicant's arguments with respect to claims 15 and 17-20 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BHISMA MEHTA whose telephone number is (571)272-3383. The examiner can normally be reached on Monday through Friday, 7:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on 571-272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Bhisma Mehta/
Examiner, Art Unit 3767
/Kevin C. Sirmons/
Supervisory Patent Examiner, Art Unit 3767